

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS**

TAMMY LYNN HOSEY,

Plaintiff,

v.

**Civil Action No. 2:11-CV-42
(Judge Bailey)**

**MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY,**

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge James E. Seibert [Doc. 22] dated February 6, 2012, to which neither party filed objections. Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, failure to file objections to the magistrate judge's proposed findings and recommendation permits the District Court to review the recommendation under the standards that the District Court believes are appropriate, and under these circumstances, the parties' right to *de novo* review is waived.

See ***Webb v. Califano***, 468 F. Supp. 825 (E.D. Cal. 1979). The Report and Recommendations specifically stated that objections were to be filed on or before February 20, 2012. Accordingly, because no objections have been filed, this report and recommendation ("R & R") will be reviewed for clear error.

In this matter, the magistrate judge found that the ALJ's factual error was harmless, he did not ignore medical evidence in making a determination Claimant does not have a

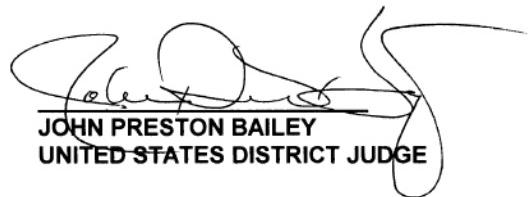
disabling condition, he properly assigned weight to treating physician opinions, he properly assigned weight to a psychological report, and he made a proper credibility determination.

Upon review of the above, it is the opinion of this Court that the Report and Recommendation [Doc. 22] should be, and is, hereby **ORDERED ADOPTED**. For the reasons more fully stated in the Report and Recommendation, this Court **ORDERS** that the Claimant's Motion for Judgment on the Pleadings [Doc. 15] be **DENIED** and the Commissioner's Motion for Summary Judgment [Doc. 20] be **GRANTED**. Accordingly, this Court further **ORDERS** that this matter be **DISMISSED WITH PREJUDICE** and that it be **STRICKEN FROM THE DOCKET OF THIS COURT**. The Clerk is **DIRECTED** to enter judgment in favor of the defendant.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record.

DATED: February 28, 2012.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE